

TENNESSEE GENERAL ASSEMBLY  
FISCAL REVIEW COMMITTEE



FISCAL MEMORANDUM

HB 653 – SB 766

March 2, 2014

**SUMMARY OF ORIGINAL BILL:** Increases, from 60 to 90 days, the timeframe for a qualified TNInvestco to resolve issues of non-compliance after receiving the summary of findings from the Department of Economic and Community Development (ECD). Increases, from \$10,000 to \$15,000 per day, the penalty for a failure to cure any areas of non-compliance within 90 days of receiving the summary of findings.

FISCAL IMPACT OF ORIGINAL BILL:

NOT SIGNIFICANT

**SUMMARY OF AMENDMENTS (011994, 012777):** Amendment 011994 deletes all language after the enacting clause. Authorizes investment returns, profits and the portion of the base investment amount to be reinvested until the seventh anniversary of the Tennessee Rural Opportunity Fund. Requires a TNInvestco that elects to reinvest returns, to reinvest the state's and the TNInvestco's returns in equal portions. Requires the Department of Economic and Community Development (ECD) to ensure that a qualified TNInvestco provides adequate documentary support for all qualified distributions related to liquidity events and that all information provided to ECD by the TNInvestco is accurate. Requires each qualified TNInvestco to report to ECD on an annual basis all qualified investments that the qualified TNInvestco has made in the previous taxable year, and the number of employees of such qualified business at the time of such investment and as of December 31, instead of December 1, of the preceding taxable year. Requires each qualified TNInvestco to report to ECD within 120 days of the close of its fiscal year, instead of within 180 days, annual audited financial statements, and requires such statements to include an examination review of follow-on capital, jobs data, and pacing requirement compliance. Requires ECD's annual review of qualified TNInvestcos to include the use of the scorecard data received from each qualified TNInvestco and requires ECD to compare such data to the qualified TNInvestco's original application to examine the investment strategy for accuracy and consistency and to ensure that statutory requirements and ECD's policies are met each year. Decreases, from 60 to 45 days, the time period for each TNInvestco to cure any areas of noncompliance, before a \$10,000 penalty per day is imposed. Authorizes ECD to promulgate rules to ensure compliance with the requirements listed in this chapter and the policies and procedures set forth by ECD. Authorizes such rules to assess a penalty of up to \$10,000 per incidence for failure to comply with the requirements. Requires ECD's annual report on the TNInvestco program to be submitted no later than the first Tuesday in September of the year subsequent to the year of the annual review of the participating TNInvestcos. Requires the Commissioner of ECD to notify the receiving parties, no later than 30 days prior to the report due date, if the report will be late, the reasons why the report will be late, and the estimated

submittal date. Establishes that certain information provided by qualified TNInvestcos to ECD shall be kept confidential due to its proprietary nature. Requires ECD to liquidate any remaining ownership interests owned by the state, beginning on December 31, 2021. Specifies that methods to liquidate remaining ownership interests include the sale of interest to a third party, and requires the sale of any ownership interests be approved by the Treasurer.

Amendment 012777 makes two technical corrections without making any substantive changes.

## **FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENTS:**

**Other Fiscal Impact – Any net fiscal impact to the state, beginning in FY21-22, as a result of the requirement that the Department of Economic and Community Development liquidate any remaining ownership interests owned by the state is dependent upon the timing and the terms of the liquidation events and cannot be determined with reasonable certainty.**

Assumptions for the bill as amended:

- The proposed revisions to the reporting requirements governing the Tennessee Small Business Investment Company Credit Act will not result in a significant administrative or fiscal impact to the state.
- Any costs incurred can be accommodated within existing resources of ECD without an increased appropriation or a reduced reversion.
- Any net fiscal impact to the state resulting from the requirement that ECD, beginning on December 31, 2021, eliminates any remaining ownership interests owned by the state will be dependent upon the timing and the terms of the individual liquidation events and cannot be determined with reasonable certainty.

## **IMPACT TO COMMERCE WITH PROPOSED AMENDMENT:**

**Other Impact – Any impact to commerce and jobs in the state, as a result of ECD liquidating any remaining ownership interests owned by the state, including the sale of interests to a third party, will be dependent upon the timing and terms of the liquidation events and the future performance of individual investments and cannot be determined with reasonable certainty.**

Assumptions for the bill as amended:

- The proposed revisions to the reporting requirements governing the Act and the reduction of the timeframe for qualified TNInvestcos to resolve issues of non-

compliance will not result in a significant increase in expenditures for qualified TNInvestcos.

- According to ECD, there have been zero penalties assessed since the inception of the Act for a failure to cure any areas of non-compliance within 60 days of receiving the summary of findings from ECD.
- Any impact to commerce and jobs in the state, as a result of ECD liquidating any remaining ownership interests owned by the state, including the sale of interests to a third party, will be dependent upon the timing and terms of the liquidation events and the future performance of investments and cannot be determined with reasonable certainty.

### **CERTIFICATION:**

The information contained herein is true and correct to the best of my knowledge.

A handwritten signature in black ink, appearing to read "Lucian D. Geise". The signature is fluid and cursive, with the first name "Lucian" written in a larger, more prominent script than the last name "Geise".

Lucian D. Geise, Executive Director

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